

Officer Employment Procedure Rules

1. Recruitment and appointment

1.1 Declarations

- (i) A candidate for any Council appointment will, when making application, inform the Chief Executive of any relation they know to be a Member or senior officer of the Council. A candidate who knowingly fails to disclose a relationship will be disqualified for the appointment and if appointed be liable to dismissal without notice. Every Member or senior officer of the Council will inform the Chief Executive of any relationship known to him/her with any person he/she knows is a candidate for an appointment. The Chief Executive will report any such disclosure to the Council or appropriate Member or officer making the appointment.
- (ii) This rule will be included in appropriate recruitment literature.
- (iii) For the purpose of this rule only "senior officer" means any Council officer graded SO or above. Persons will be deemed to be related if they are – parent, grandparent, spouse, partner, child, grandchild, brother, sister, uncle, aunt, nephew or niece of a member/candidate/senior officer.
- (iv) Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the appropriate Director, except where the Director is the officer to whom the candidate has declared a relationship, in which case the Chief Executive or Director of Central Services will approve any proposed offer of employment.

1.2 Seeking support for an appointment

- (i) Canvassing of Members or senior officers directly or indirectly for any appointment will disqualify the candidate. Recruitment literature will include a note to this effect.
- (ii) A Member shall not solicit for any person any Council appointment but may give a written testimonial of a candidate's ability, experience or character for an application for appointment with the Council.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1 Draw up a statement specifying:

- (i) The duties of the officer concerned; and

- (ii) Any qualifications or qualities to be sought in the person to be appointed;
- 2.2 Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 2.3 Make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.

3. Appointment of Chief Executive

- 3.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a Panel of Members appointed by the Council for that purpose. This Panel will include at least one member of the Executive.
- 3.2 The full Council may only approve the appointment of the Chief Executive where no well founded objection has been made by any member of the Executive.

4. Appointment of chief officers, i.e. officers graded M4 and above (other than the Chief Executive)

- 4.1 The appointment of chief officers other than the Chief Executive will be made by a Panel of Members appointed by the Council for that purpose. This panel will include at least one member of the Executive.
- 4.2 An offer of employment shall only be made where no well founded objection from any member of the Executive has been received.

5. Other appointments

- 5.1 **Officers below chief officer.** Appointment of officers below chief officer is the responsibility of the Chief Executive or his/her nominee, and may not be made by councillors.
- 5.2 **Political assistants.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary action against certain post holders

- ~~6.1 **Suspension.** The Chief Executive, Monitoring Officer and Director of Finance & Transformation may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.~~
- ~~6.21 **Independent person.** No disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report~~

~~made by a designated independent person. A relevant officer* may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) is complied with.~~

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~~* relevant officer means the chief finance officer, head of the Council's paid service or monitoring officer as the case may be.~~

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- 6.32 Council Members will not be involved in ~~the~~ disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of action taken under those procedures.

7. Dismissal

Councillors will not be involved in the dismissal of any officer below chief officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

8. Local Authorities (Standing Orders) (England) Regulations 2001

The rules set out in the Annex shall have effect in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

Annex

Provisions to be incorporated into standing orders relating to staff

1. In this Part -

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"executive" and "executive leader" have the same meaning as in Part ~~II~~1A of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against -

(a) the officer designated as the head of the authority's paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. - (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment ~~or dismissal~~ of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him ~~or, as the case may be, must approve that dismissal before notice of dismissal is given to him.~~

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

5. - (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until -

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the proper officer has notified every member of the executive of the authority of -

(i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either -

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

6. - (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until -

(a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(b) the proper officer has notified every member of the executive of the authority of -

(i) the name of the person who the dismissor wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

(iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either -

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;

(ii) the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or

(iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by -

(a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or

(b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Provisions to be incorporated in standing orders in respect of disciplinary action

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1. In the following paragraphs—

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(a) “the 2011 Act” means the Localism Act 2011(b):

(b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

(c) “independent person” means a person appointed under section 28(7) of the 2011 Act;

(d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

(e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

(f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

(g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

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3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

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4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

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5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—
(a) a relevant independent person who has been appointed by the authority and who is a local government elector;
(b) any other relevant independent person who has been appointed by the authority;
(c) a relevant independent person who has been appointed by another authority or authorities.

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6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

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7. The authority must appoint any Panel at least 20 working days before the relevant meeting.

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8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

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(a) any advice, views or recommendations of the Panel;
(b) the conclusions of any investigation into the proposed dismissal; and
(c) any representations from the relevant officer.

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9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.

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